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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,938	03/03/2004	Cor Van Rijn	03/018 KP	4127
38263	7590	03/05/2007		
PROPAT, L.L.C. 425-C SOUTH SHARON AMITY ROAD CHARLOTTE, NC 28211-2841			EXAMINER MIGGINS, MICHAEL C	
			ART UNIT	PAPER NUMBER
			1772	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/05/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/791,938

**Applicant(s)**

VAN RIJN ET AL.

**Examiner**

Michael C. Miggins

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7 and 9-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7 and 9-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

#### **REJECTIONS WITHDRAWN**

1. There are no rejections withdrawn.

#### **REJECTIONS REPEATED**

2. All of the 103 rejections set forth in the non-final rejection of 7/10/06, pages 2-4, paragraphs 1-2 are repeated for the reasons of record. To claim 1 applicant has added that the film is calendered which is disclosed by Tyson (page 1, lines 42-48). To claim 1 applicant has added that the width of the film is up to about 2010 mm which technically, as written, is a range which is from 0 to 2010 mm which is disclosed by Huguen since a battery pack has a width of from 0 to 2010 mm. To claim 1 applicant has added that the film is stretched at a temperature of from 180 to 60 degrees C which is disclosed by Tyson (page 2, lines 5-13 and page 2, lines 67-94). Applicant has added to claims 1 and 2 that the heat shrinkage is measured over a period of about 0 to 15 minutes at a temperature of from about 115 to 125 degrees C which is disclosed by Tyson (page 2, lines 67-94) since the stretch is measured immediately.

#### **NEW REJECTIONS**

3. There are no new rejections.

#### **ANSWERS TO APPLICANT'S ARGUMENTS**

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4. Applicant's arguments of 10/10/06 have been carefully considered but are deemed unpersuasive.

Applicant has argued that the PVC film of Huguen is not rigid. However, the term rigid is not defined in the claims. Furthermore, Huguen discloses that the film is self supporting which means that the film is at least somewhat rigid (column 2, lines 45-50).

Applicant has argued that Huguen fails to disclose that the film is calendered. However, Tyson discloses a PVC shrink film which is calendered (page 1, lines 42-48).

Applicant has argued that Huguen fails disclose a PVC film having a width of up to about 2010 mm. However, the range, as written, is technically from about 0 to 2010 mm and a battery pack has a width which is between 0 and 2010 mm and since the film covers the battery pack the film has a width which is between 0 and 2010 mm.

Applicant argues that Huguen fails to disclose the film which is calendered from 180 to 60 degrees C in the machine direction. However, Tyson discloses the film which is calendered from 180 to 60 degrees C in the machine direction (page 1, lines 42-48 and page 2, lines 5-15).

Applicant argues that Huguen discloses a polypropylene backing film and not PVC. However, Huguen discloses PVC backing film (column 3, lines 31-38).

Applicant has argued that Huguen does not disclose the negative shrinkage of about 0 to 10% as recited in claim 2. However, Huguen specifically discloses a negative shrink of from 0 to 10% (column 5, lines 29-36). Furthermore, even if it could be somehow argued that Huguen does not disclose a negative shrinkage of from 0 to 10%, Tyson clearly discloses a negative shrinkage of from 10 to 15% which has a

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common end point with the 0 to 10% range recited by applicant and thus reads on the claim as written.

Applicant has argued that Huguen does not disclose the recited temperatures at which the shrinkage occurs. However, Tyson discloses the recited temperatures at which the shrinkage occurs (page 2, lines 5-15 and page 2, lines 67-94).

Applicant has argued that Tyson does not disclose that the film is rigid. However, Huguen discloses a rigid film as discussed above.

Applicant has alleged that the heat shrinkage of Tyson takes place at 70 degrees C. However, Tyson clearly discloses that the heat shrinkage temperature is 120 degrees C (page 2, lines 67-94) and discloses a temperature as high as 140 degrees C (page 2, lines 5-15).

Applicant has argued that Huguen and Tyson are drawn to different fields of endeavor. However, the examiner respectfully disagrees since both references are drawn to PVC shrink films.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine is the lower cost and ease of operation of using a hot air oven.

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In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

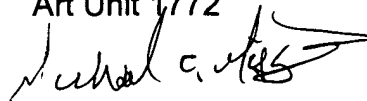
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Miggins  
Primary Examiner  
Art Unit 1772



MCM  
December 26, 2006